



Southeast Fishery Bulletin

National Marine Fisheries Service, Southeast Regional Office, 9721 Executive Center Drive N., St. Petersburg, FL 33702

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Final Rule for the Dolphin and Wahoo Fishery of the Atlantic **Small Entity Compliance Guide**

The National Marine Fisheries Service (NOAA Fisheries) has published a final rule in the *Federal Register* implementing the approved regulatory actions described in the Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic (FMP). The FMP was developed by the South Atlantic Fishery Management Council (SAFMC), in cooperation with the Mid-Atlantic and New England Fishery Management Councils.

The FMP represents a proactive approach to maintaining healthy stocks of dolphin and wahoo, with action intended to cap the current participation, effort, and landings in the fishery. Approved actions provide equitable harvesting restrictions to the recreational and commercial sectors, and maintain the historical participation by both user groups. The intended effects of these rules are to conserve and manage dolphin and wahoo off the Atlantic states (Maine through the east coast of Florida), and to ensure that no new fisheries for dolphin and wahoo develop.

Effective June 28, 2004:

- There will be a 20-inch fork length minimum size limit for dolphin off the coasts of Georgia and Florida with no size restrictions elsewhere;
- Longline fishing for dolphin and wahoo will be prohibited in areas closed to the use of such gear for highly migratory pelagic species (HMS); and
- Allowable gear to be used in the fishery will include: hook-and-line gear including manual, electric, and hydraulic rods and reels; bandit gear; handlines; longlines; and spearfishing (including powerheads) gear.

Effective September 24, 2004:

- Owners of commercial vessels and/or charter vessels/headboats must have vessel permits and, if selected, submit reports;
- Dealers must have permits and, if selected, submit reports;
- Longline vessels must comply with sea turtle protection measures;
- There will be a recreational bag limit of 10 dolphin

and 2 wahoo per person per day, with a limit of 60 dolphin per boat per day (headboats are excluded from the boat limit);

- There will be a prohibition on recreational sale of dolphin and wahoo caught under the bag limit unless the seller holds the necessary commercial permits; and
- There will be a commercial trip limit of 500 pounds for wahoo.

For a commercially permitted vessel fishing north 39° N. latitude, that does not have a federal commercial vessel permit for dolphin or wahoo, there is a trip limit of 200 pounds of dolphin and wahoo, combined.

Effective November 23, 2004:

- Operators of commercial vessels, charter vessels, and headboats that are required to have a federal vessel permit for dolphin and wahoo must have and display operator permits.

To apply for a vessel, dealer or operator permit, interested parties should contact the Permits Office, NOAA Fisheries Southeast Regional Office, 9721 Executive Center Drive North, St. Petersburg, Florida, 33702, or by phone at 727-570-5326.

An operator permit issued by NOAA Fisheries is valid for any fishery for which NOAA Fisheries requires an operator permit. An operator does not have to obtain a separate operator permit for each fishery.

Publication of the final rule gives effect to NOAA Fisheries' approval of other portions of the FMP, including:

- The management unit and designations of stock status criteria for those units;
- The fishing year of January 1 through December 31;
- A non-binding 1.5 million pound (or 13 percent of the total harvest) cap on commercial landings;
- Establishment of a framework procedure by which the SAFMC may modify its management measures; and
- Designations of essential fish habitat (EFH) and EFH habitat areas of particular concern (EFH-HAPCs).

Background Information

Historically, the dolphin and wahoo fishery for the Atlantic coast has been dominated by recreational landings. Prior to 1990, recreational landings represented greater than 90 percent of the total catch. In the mid-1990s, commercial landings increased from approximately 500,000 pounds to highs of 1.5 to 2.2 million pounds, while recreational landings remained fairly stable at approximately 10 million pounds. The ratio between recreational and commercial landings was approximately 87:13. This is the ratio the SAFMC chose to use in the FMP. Since 1997, commercial landings have declined to less than 1 million pounds again, and have been stable at that level. During that same time period, recreational landings increased from 10 million to a high of more than 13 million pounds in 2001. The current ratio is approximately 93:7.

Given the current healthy status of the fishery and the SAFMC's stated intent to stabilize but not reduce the current fishery, NOAA Fisheries disapproved the following proposed actions.

- *Commercial permit qualifying criteria:*

Intended to capture historical participants, the proposed qualifying criteria would have allowed vessels with no history in the fishery to qualify, while excluding vessels that currently participate in the fishery. Additionally, permits would only have been transferrable through the sale of the permitted vessel. NOAA Fisheries agrees that a permitting system is needed in the fishery, and intends to work closely with the SAFMC to develop more appropriate qualifying criteria under which federal vessel permits will be issued.

- *Commercial trip limits for dolphin:*

Although the SAFMC was justifiably concerned about the potential for expansion of the commercial dolphin fishery, the HMS time-and-area closures in the South Atlantic

region appear to have curtailed that potential. Commercial landings of dolphin have declined back to historical levels of less than 1.0 million pounds. Should landings of dolphin in the commercial sector begin to approach or exceed the 1.5 million pound or 13 percent cap established in the FMP, the SAFMC may wish to revisit this issue.

- *Habitat:*

NOAA Fisheries approved EFH and EFH-HAPC designations to include the Florida Straits, the Gulf Stream fronts, and the Charleston Gyre, but disapproved the designation of sargassum as EFH. Sargassum is important habitat for pelagic fishes, but because only its potential area of occurrence can be described, it does not qualify for designation under EFH regulations. EFH is intended to be specific geographic areas.

This bulletin serves as a Small Entity Compliance Guide, complying with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. Any discrepancies between this document and the rule as published in the *Federal Register* will be resolved in favor of the *Federal Register*.

This bulletin also serves to notify the public of collection-of-information requirements associated with permits for the fishery. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements may be submitted to Robert Sadler, NOAA Fisheries Southeast Regional Office, 9721 Executive Center Drive North, St. Petersburg, Florida, 33702, and by e-mail to David_Rostker@omb.eop.gov, or fax to 202-395-7285.

This and other news releases are available on the Southeast Regional Office homepage at <http://caldera.sero.nmfs.gov/>. NOAA Fisheries is an agency of the Department of Commerce.

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